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97TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 97-816

# DECLARING CERTAIN FEDERAL LANDS ACQUIRED FOR THE BENEFIT OF INDIANS TO BE HELD IN TRUST FOR THE TRIBES OF SUCH INDIANS

SEPTEMBER 16, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

## REPORT

[To accompany H.R. 5916]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 5916) to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the Tribes of such Indians having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert the following in lieu thereof:

That (a) the first section of the Act of October 17, 1975 (89 Stat. 577; 25 U.S.C. 459) is amended by adding thereto the following new subsection (c):

"(c) The right, title, and interest of the United States of America in all of the lands, including the improvements now thereon (title to which is in the United States), acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and any subsequent Emergency Relief Appropriation Acts, including but not limited to section 5 of the Emergency Relief Appropriation Act of 1939 (53 Stat. 927, 930) and section 4 of the Emergency Relief Appropriation Act, fiscal year 1941 (54 Stat. 611, 617), together with all minerals underlying any such land whether acquired pursuant to such Acts or otherwise owned by the United States, and which lands are now administered by the Secretary of the Interior for the use or benefit of (1) Ramah Navajo Indians, are hereby declared to be held in trust for the Ramah Band of the Navajo Tribe, and (2) Choctaw Indians of Mississippi, except lands subject to the Act of June 21, 1939 (53 Stat. 851), are hereby declared to be held in trust for the Mississippi Band of Choctaw Indians; except valid rights-of-way of record."

(b) Section 2(a) of said Act of October 17, 1975 is amended by deleting "section 1 of this Act" and inserting in lieu thereof "section 1(a) of this Act."

(c) The amendment made by this Act shall be effective upon enactment of this Act.

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## Purpose

The purpose of H.R. 5916, introduced by Mr. Skeen, is to provide that certain Federal lands will be held by the United States in trust for the Ramah Band of Navajo Indians.

## Background

H.R. 5916, if enacted, would amend the Act of October 17, 1975 (89 Stat. 577; 25 U.S.C. 459) to declare that all right, title, and interest of the United States in all of the lands, and the improvements thereon, which were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and any subsequent Emergency Relief Appropriation Acts, including the Emergency Relief Appropriation Act of 1939 (53 Stat. 927, 930) and the Emergency Relief Appropriation Act of 1941 (54 Stat. 611, 617) together with all minerals underlying any such land, be held in trust for the Ramah Band of the Navajo Tribe.

H.R. 5916 would transfer approximately 4,807.05 acres, including surface and subsurface interests, to the Ramah Band of the Navajo Tribe. The land that would be transferred is located in Cibola County, New Mexico, and consists of ten parcels of land, each of which is surrounded by Ramah Indian land with the exception of a 10-acre tract which is bordered by Ramah Indian land on two sides.

The Ramah Band's attachment to the subject lands is a longstanding one. As early as 1540 when the Band joined with the Zunis to resist Coronado's invasion. Later, in 1868, the Band resettled in the general area after its members were released from capture at Fort Sumner.

Since acquisition of the land by the United States, members of the Band have made their homes, farmed, and raised livestock on the land. At present, there are sixteen families living on the land; their major source of income is from livestock, which averages approximately $2,000 per year per family. Farming and livestock represent 80 percent of the economic base of the Ramah Band.

Based on Departmental procedures drafted and compiled by the Solicitor's Office in 1943, title to these lands was taken in the name of the "United States for the United Pueblo Land Acquisition Project Involving Rural Rehabilitation of Needy Ramah Navajo Indians." While a 1941 Solicitor's opinion specifically stated that no authority existed in the various emergency relief appropriations Act to take lands in trust, they were treated as such by the Bureau of Indian Affairs personnel because the funds were (according to approved Departmental procedures) placed in tribal trust accounts and later expended for the acquisition of land.

Inasmuch as the lands were administered as tribal lands, Indian residents were considered eligible to participate in BIA or HUD housing assistance and improvement programs. Fifteen residential leases were issued before the Field Solicitor's 1978 title opinion precluded further leasing. Since then, only revocable permits have been issued. The permits afford little in terms of tenure and possessory interest, providing merely a use-right revocable at any time and, therefore, nonmaketable in securing loans for improvements, etc.

Easements in favor of the Indian Health Service for water and sewer facilities to serve the Indian homes located on the subject lands are proposed in 1982. Two roads built and maintained by the Bureau of Indian Affairs, one paved and one gravel, extend through several of the tracts.

Few natural resources exist, and, although the land is prospectively valuable for oil, coal, and gas, a 1976 survey conducted by the Bureau of Mines, the U.S. Geological Survey and the Bureau of Indian Affairs indicates that no resource values of such significance as to require maintenance of the land in public ownership have been identified. When the surface of the land was patented to third parties, the United States, in six of the eight patents, reserved the mineral interests. When the surface was subsequently reacquired under the emergency relief statutes, the two estates merged. In the case of the remaining two patents, the mineral interests were vested in the patentees and reacquired with the surface interests. It is intended that all mineral interests shall, with the surface interests, be held in trust for the respective tribes as in the case of previous legislation.

## ANALYSIS

The bill amends the Act of October 17, 1975 (89 Stat. 577; 25 U.S.C. 459) by adding a new subsection (c) that declares all right, title and interest, including subsurface interests, of the United States in lands acquired by the United States under Title II of the National Industrial Recovery Act of 1933 and any subsequent Emergency Relief Appropriation Act and administered by the Secretary of the Interior for the use or benefit of the Ramah Navajo Indians, to be held in trust for the Ramah Band of the Navajo Tribe.

## Committee Amendment

The Committee adopted an amendment in the nature of a substitute recommended by the Department of the Interior. The Department, in its report to the Committee, pointed out that a situation similar to that of the Ramah Navajo existed with respect to the Mississippi Band of Choctaw.

The amendment in the nature of a substitute includes a transfer of approximately 110 acres, including surface and subsurface interests, to the Mississippi Band of Choctaw Indians. Ninety acres (estimated fair market value of $90,000) of the subject lands are located in Leake County, Mississippi, within a one-fourth mile of existing Choctaw Indian land; the remaining 20 acres (estimated fair market value of $12,000) are located in Scott County, Mississippi, within four miles of existing Choctaw Indian land.

The ninety-acres in Leake County had originally been purchased by a Mississippi Choctaw couple in 1927 with restricted Indian funds. While these lands, which had been subject to State taxation, were purchased with restricted funds and made subject to alienation only with the consent of the Secretary of the Interior, such lands, at that time, continued to be taxable. In order to avoid tax foreclosure, the United States through the Bureau of Indian Affairs acquired the

property in 1941 with emergency relief funds, thus allowing the Indian couple to remain on the land. It has since been treated as tribal land.

Enactment of the substitute bill would transfer, to tribal ownership, the remaining Federal lands acquired for Indian relief and rehabilitation under the emergency relief acts of the 1930's and 1940's. (See 25 U.S.C. 459 and 621). The Committee is not aware of any other lands in similar status.

The history regarding the acquisition and administration of these lands clearly outline the understanding that the land was purchased for the exclusive benefit of the Indians; that it was needed by the Indians; and that it could be used by the Indians in connection with other Indian-owned land. It was contemplated by Federal officials that the land would improve the Indians' economy and lessen relief costs.

## Cost And Budget Act Compliance

Enactment of H.R. 5916, as amended, would represent no cost to the United States. The cost analysis prepared by the Congressional Budget Office follows:

U.S. Congress,
Congressional Budget Office,
*Washington, D.C., September 10, 1982.*

Hon. Morris K. Udall,
*Chairman, Committee on Interior and Insular Affairs,*
*U.S. House of Representatives,*
*1324 Longworth Building, Washington, D.C.*

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 5916, a bill to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the Tribes of such Indians, as ordered reported by the House Committee on Interior and Insular Affairs, August 10, 1982.

Based on this review, it is expected that no additional cost to the government would be incurred as a result of the enactment of this legislation. The bill confirms that certain lands previously acquired for the benefit of the Ramah Band of the Navajo Tribe and the Mississippi Band of Choctaw Indians will be held in trust for the benefit of the respective Tribes.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin, *Director.*

## Inflationary Impact Statement

Enactment of H.R. 5916, as amended, will have no inflationary impact.

## Oversight Statement

No specific oversight activities were conducted by the Committee and no recommendations were submitted to the Committee pursuant to rule X, clause 2(b)(2.

## Committee Recommendation

The Committee on Interior and Insular Affairs, by voice vote, approved the bill, as amended, and recommends its enactment by the House of Representatives.

## Changes in Existing Law

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

### Act of October 17, 1972 (89 Stat. 577; 25 U.S.C. 459)

That (a) except as hereinafter provided, all of the right, title, and interest of the United States of America in all of the land, and the improvements now thereon, that was acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781), and that are now administered by the Secretary of the Interior for the use or benefit of the Indian tribes identified in section 2(a) of this Act, together with all minerals underlying any such land whether acquired pursuant to such Acts or otherwise owned by the United States, are hereby declared to be held by the United States in trust for each of said tribes, and (except in the case of the Cherokee Nation) shall be a part of the reservations heretofore established for each of said tribes.

(b) The property conveyed by this Act shall be subject to the appropriation or disposition of any of the lands, or interests therein, within the Pine Ridge Indian Reservation, South Dakota, as authorized by the Act of August 8, 1968 (82 Stat. 663), and subject to a reservation in the United States of a right to prohibit or restrict improvements or structures on, and to continuously or intermittently inundate or otherwise use, lands in sections 25 and 26, township 48 north, range 3 west, at Odanah, Wisconsin, in connnection with the Bad River flood control project as authorized by section 203 of the Act of July 3, 1958 (72 Stat. 297, 311): *Provided*, That this Act shall not convey the title to any part of the lands or any interest therein that prior to enactment of this Act have been included in the authorized water resources development projects in the Missouri River Basin as authorized by section 203 of the Act of July 3, 1958 (72 Stat. 297, 311), as amended and supplemented: *Provided further*, That such lands included in Missouri River Basin projects shall be treated as former trust lands are treated.

(c) *The right, title, and interest of the United States of America in all of the lands, including the improvements now thereon (title to which is in the United States), acquired under title II of the National Industrial Recovery Act of June 16 1933 (48 Stat. 200), and any subsequent Emergency Relief Appropriation Acts, including but not limited to section 5 of the Emergency Relief Appropriation Act of 1939 (53 Stat. 927, 930) and section 4 of the Emergency Relief Appropriation Act, fiscal year 1941 (54 Stat. 611, 617), together with all minerals*

*underlying any such land whether acquired pursuant to such Acts or otherwise owned by the United States, and which lands are now administered by the Secretary of the Interior for the use or benefit of (1) Ramah Navajo Indians, are hereby declared to be held in trust for the Ramah Band of the Navajo Tribe, and (2) Choctaw Indians of Mississippi, except lands subject to the Act of June 21, 1939 (53 Stat. 851), are hereby declared to be held in trust for the Mississippi Band of Choctaw Indians; excepting valid rights-of-way of record.*

SEC. 2. (a) The lands, declared by [section 1 of this Act] *section 1(a) of this Act* to be held in trust by the United States for the benefit of the Indian tribes named in this section, are generally described as follows:

| Tribe | Reservation | Submarginal land project donated to said tribe or group | Approximate acreage |
|---|---|---|---|
| 1. Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin. | Bad River | Bad River LI–WI–8 | 13,148.81 |
| 2. Blackfeet Tribe | Blackfeet | Blackfeet LI–MT–9 | 9,036.73 |
| 3. Cherokee Nation of Oklahoma | | Delaware LI–OK–4 | 18,749.19 |
| | | Adair LI–OK–5 | |
| 4. Cheyenne River Sioux Tribe | Cheyenne River | Cheyenne Indian LI–SD–13 | 3,738.47 |
| 5. Crow Creek Sioux Tribe | Crow Creek | Cros Creek LI–SD–10 | 19,169.89 |
| 6. Lower Brule Sioux Tribe | Lower Brule | Lower Brule LI–SD–10 | 13,209.22 |
| 7. Devils Lake Sioux Tribe | Fort Totten | Fort Totten LI–ND–11 | 1,424.45 |
| 8. Fort Belknap Indian Community | Fort Belknap | Fort Balknap LI–MT–8 | 25,530.10 |
| 9. Assiniboine and Sioux Tribes | Fort Peck | Fort Peck LI–MT–6 | 85,835.52 |
| 10. Lac Courte Oreilles Band of Lake Superior Chippewa Indians. | Lac Courte Oreilles | Lac Courte LI–WI–9 | 13,184.65 |
| 11. Keweenaw Bay Indian Community | L'Anse | L'Anse LI–MI–8 | 4,016.49 |
| 12. Minnesota Chippewa Tribe | White Earth | Twin Lakes LI–MN–6 | 28,544.80 |
| | | Flat Lake LI–MN–15 | |
| 13. Navajo Tribe | Navajo | Gallup-Two Wells LI–NM–18 | 69,947.24 |
| 14. Oglala Sioux Tribe | Pine Ridge | Pine Ridge LI–SD–7 | 18,064.48 |
| 15. Rosebud Sioux Tribe | Rosebud | Cutmeat LI–SD–8 | 28,734.59 |
| | | Antelope LI–SD–9 | |
| 16. Shoshone-Bannock Tribes | Fort Hall | Fort Hall LI–SD–2 | 8,711 |
| 17. Standing Rock Sioux Tribe | Standing Rock | Standing Rock LI–ND–10 | 10,255.5 |
| | | Standing Rock LI–SD–10 | |

(b) The Secretary of the Interior shall cause to be published in the Federal Register the boundaries and descriptions of the lands conveyed by this Act. The acreages set out in the preceding subsection are estimates and shall not be construed as expanding or limiting the grant of the United States as defined in section 1 of this Act.

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BEST DOCUMENT AVAILABLE